

REMARKS

Claims 1-24 are pending in the application. Claims 1, 3-5, 7, 10-12, 18-20, 23, and 24 have been amended to define more clearly the features of the claimed invention, thereby overcoming the rejection under 35 U.S.C. § 112 set forth below.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-24 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1-24 stand rejected on prior art grounds under 35 U.S.C. § 102(e) as being anticipated by Roll (U.S. Patent Application Publication 2002/0016779).

These rejections are respectfully traversed in view of the following discussion.

I. THE CLAIMED INVENTION

In the illustrative, non-limiting embodiment of the claimed invention, as defined in independent claim 1, is directed to a method for conducting electronic commerce that comprises electronically visiting, by a customer interested in shopping for an item, a preselected comparison shopping site (CompShop), and inquiring about the item and comparative prices thereof, running, by the preselected comparison shopping site, a query on a plurality of electronic stores carrying the item, and asking for a price of the item, the plurality of electronic stores including at least one

smartStore, determining by the at least one smartStore that the query is received from the preselected comparison shopping site, and selectively determining, by the smartStore, an offer price of the item and selectively returning one of a static price and a modified price, the modified price resulting from the smartStore learning a best offer price received by the preselected comparison shopping site from the plurality of electronic stores.

Another exemplary embodiment of the claimed invention, as defined in independent claim 22, is directed to a system for conducting electronic commerce between a customer and one of a plurality of electronic stores that comprises a plurality of electronic stores, a preselected comparison shopping site coupled to the plurality of electronic stores and a customer interested in purchasing an item, in which at least one of the plurality of electronic stores comprises a smartStore that recognizes a query from the preselected comparison shopping site, and an electronic medium for linking the customer, each of the plurality of electronic stores, and the preselected comparison shopping site together electronically, in which the preselected comparison shopping site runs the query on the plurality of electronic stores and requests an offer price of the item, and in which the smartStore determines a predetermined offer price of the item from the plurality of electronic stores and selectively returns one of a static price and a modified price, the modified price resulting from the smartStore learning a lowest offer price received by the preselected comparison shopping site from all of the plurality of electronic stores.

Another exemplary embodiment of the claimed invention, as defined in independent claim 23, is directed to a system for performing electronic commerce that comprises a preselected comparison shopping site (CompShop), means for electronically visiting, by a

customer interested in shopping for an item, the preselected comparison shopping site, and inquiring about the item and comparative prices thereof, means for running, by the preselected comparison shopping site, a query on a plurality of electronic stores, asking for a price of the item, and means for determining, by at least one of the plurality of electronic stores that recognizes the query from the preselected comparison shopping site, an offer price of the item and returning one of a static price and a modified price, the modified price resulting from the at least one of the plurality of electronic stores that recognizes a query from the preselected comparison shopping site learning a lowest offer price received by the preselected comparison shopping site from the plurality of electronic stores.

Another exemplary embodiment of the claimed invention, as defined in independent claim 24, is directed to a signal-bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method of conducting electronic commerce. The method comprising electronically visiting, by a customer interested in shopping for an item, a preselected comparison shopping site (CompShop), and inquiring about the item and comparative prices thereof, running, by the preselected comparison shopping site, a query on a plurality of electronic stores asking for a price of the item, and determining, by at least one of the plurality of electronic stores that recognizes the query from the preselected comparison shopping site, an offer price of the item and returning one of a static price and a modified price, the modified price resulting from the at least one of the plurality of electronic stores that recognizes the query from the preselected comparison shopping site

learning a lowest offer price received by the preselected comparison shopping site from the plurality of electronic stores.

An aspect of the claimed invention provides that if the customer has accessed a preselected comparison shopping site, then a smartStore, which recognizes the price query as originating from the preselected comparison shopping site, may determine that a modified price based on competitive prices and a profit margin is necessary. If the customer has not accessed the preselected comparison shopping site, the smartStore will return a static, i.e., standard price.

The above operation can be compared to the traditional model of "coupon clipping" or "mail in rebates." Stores, i.e., those stores which are analogous to the smartStore, typically give a special price to customers who bring in coupons, where the coupon represents "shopping" through a medium, for example, a newspaper in which the store has advertised. Bringing in the newspaper coupon is analogous to accessing the preselected comparison shopping site of the invention. However, the stores rely on the fact that there will be many customers who do not clip coupons or who will forget to turn in the mail-in rebates (e.g., see specification, page 3, lines 19-22).

II. CLAIM REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 1-24 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. The claims are amended herewith merely to overcome this rejection.

The Examiner respectfully is requested to withdraw this rejection.

III. THE PRIOR ART REJECTIONS

Claims 1-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Roll.

The Examiner alleges that Roll discloses all of the features of the claimed invention.

As mentioned above, the features of claim 21 are incorporated into independent claims 1 and 22-24.

Applicant respectfully submits that the Roll reference neither discloses nor suggests all of the features of amended claims 1 and 22-24.

For example, claim 1 (as amended) recites, *inter alia*, “selectively determining, by the smartStore, an offer price of the item and selectively returning one of a static price and a modified price, the modified price resulting from the smartStore learning a best offer price received by the preselected comparison shopping site from the plurality of electronic stores” (emphasis added).

In comparison, Roll neither discloses nor suggests that an offer price of the item is selectively determined and that one of a static price and a modified price are selectively returned by the smartStore, the modified price resulting from the smartStore learning a best offer price received by the preselected comparison shopping site from the plurality of electronic stores, as claimed.

Instead, Roll merely discloses a method for loading the data to a database of the host provider and assigning a unique ID to that data (e.g., see Roll at paragraph [0060], lines 1-4). Roll states that pre-existing data, as well as internally created data, such as individual product

details and specifications can be uploaded to the system. Roll further discloses that each component of data is linked to a related item type (i.e., step 600). Then, based on the particular item type, a unique item ID is assigned (i.e., step 602) to the data, which is then stored in the database (e.g., see Roll at paragraph [0060]).

In other words, Roll merely assigns a unique ID to the data based on a related data type. That is, Roll does not perform a price comparison between identical items and substantially identical items, as claimed, but instead merely creates a unique ID of the same item based on the type of data of that item.

Furthermore, Roll discloses a host system that adjusts the price offered based upon prices listed by other sites and the affordability of the host system itself. The host system decides what price to offer to the end users.

Thus, Roll clearly does not disclose, suggest, or even mention selectively determining, by the smartStore, an offer price of the item and selectively returning one of a static price and a modified price, the modified price resulting from the smartStore learning a best offer price received by the preselected comparison shopping site from the plurality of electronic stores, as claimed.

The present invention provides a novel and unobvious method and system wherein all participating sites (some of them smartStores and others not) compete by offering lower prices based upon the fact that there is a comparison shopping site that is making them participate in a dynamic pricing competition. The participating sites offer competitive prices based on the fact

that they are participating in a system of comparative shopping. Because the request for price comes through the comparison shopping site, and not from a direct user, the smartStore knows that it is participating in a system of comparative shopping and the smartStore may offer a better price.

Unlike the host system in Roll that actively adjusts the offered price, the comparison shopping site of the claimed invention acts as a neutral mediator between competing sites. In return, the mediator may receive a portion of the final price.

Applicant respectfully submits that Roll neither discloses nor suggests selectively determining, by the smartStore, an offer price of the item and selectively returning one of a static price and a modified price, the modified price resulting from the smartStore learning a best offer price received by the preselected comparison shopping site from the plurality of electronic stores, as claimed in the exemplary embodiments defined by independent claims 1 and 22-24.

Thus, Applicant respectfully submits that claims 1-24 are not anticipated by Roll and respectfully requests that the Examiner withdraw this rejection and permit these claims to pass to allowance.

IV. FORMAL MATTERS AND CONCLUSION

The drawings have been objected to in the present Office Action. However, Applicant respectfully submits that formal drawings were filed with the Patent Office on December 30, 2003, and subsequently were approved by the Examiner in the Advisory Action of January 23,

2004. In a telephone conference with the Examiner on May 25, 2004, the Examiner confirmed that the present drawing objection was erroneous and that the drawings filed on December 30, 2003 and accepted by the Examiner on January 23, 2004 were approved.

In view of the foregoing, Applicant submits that claims 1-24, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 09-0441.

Respectfully Submitted,

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